



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0200]

RIN 1625-AA00

Safety Zone; International Bridge 50th Anniversary
Celebration Fireworks, St Mary's River, U.S. Army Corps of
Engineers Locks, Sault Sainte Marie, MI.

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the specified waters of Captain of the Port Sault Sainte Marie zone. This safety zone is intended to restrict vessels from certain portions of water areas within Sector Sault Sainte Marie Captain of the Port zone, as defined by 33 CFR Part 3-45.45. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective from 10 p.m. until 12 a.m. on June 28, 2012.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket USCG-2012-0200

and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0200 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail MST3 Kevin Moe, U.S. Coast Guard, Sector Sault Sainte Marie, telephone 906-253-2429, email at Kevin.D.Moe@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 12, 2012, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; International Bridge 50th Anniversary Celebration Fireworks, St Mary's River, U.S. Army Corps of Engineers Locks, Sault Sainte Marie, MI; in the Federal Register (77 FR 21893). We received 1 public submission commenting on the proposed rule. No public meeting was requested, and none was held.

Basis and Purpose

On the evening of 28 June 2012, The International

Bridge Administration will be celebrating the International Bridge 50th Anniversary. As part of that celebration, fireworks will be launched from the northeast pier of the U.S. Army Corp of Engineers Soo Locks. The Captain of the Port Sault Sainte Marie has determined that the fireworks event poses various hazards to the public, including explosive dangers associated with fireworks, and debris falling into the water.

Discussion of Comments and Changes

The Coast Guard received 1 public submission from an anonymous source commenting on the benefits of promoting safety in firework displays, but not commenting on the specifics of this rule.

Discussion of Rule

This rule and its associated safety zone are necessary to ensure the safety of vessels and people during the aforementioned fireworks event. The temporary safety zone will encompass all waters within a 750-foot radius around the eastern portion of the U.S. Army Corps of Engineers Soo Locks North East Pier, centered on position: 46°30'19.66"N, 084°20'31.61"W [DATUM: NAD 83].

In accordance with 33 CFR § 165.7(a), the Captain of the Port Sault Sainte Marie will use all appropriate means to notify the affected segments of the public when the safety

zone will be enforced.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Sault Sainte Marie or his or her designated representative. All persons and vessels permitted to enter the safety zone established by this rule shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative. The Captain of the Port or his or her designated representative may be contacted via VHF Channel 16.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that those Orders.

It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone will be relatively small and will exist for only a minimal time. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by proper authority.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: The owners or operators of

vessels intending to transit or anchor in the vicinity of U.S. Army Corps of Engineers Soo Locks North East Pier on between 10 p.m. and 12 a.m. on June 28, 2012.

This temporary safety zone will not have significant economic impact on a substantial number of small entities for the following reasons: this rule will only be enforced for a short period of time. Vessels may safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port, Sector Sault Sainte Marie, to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism. On April 12, 2012, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; International Bridge 50th Anniversary Celebration Fireworks, St Mary's River, U.S. Army Corps of Engineers Locks, Sault Sainte Marie, MI; in the Federal Register (76 FR 22064). We received 1 public submission commenting on the proposed rule.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble. On April 12, 2012, we published a notice of proposed rulemaking (NPRM) entitled

Safety Zone; International Bridge 50th Anniversary Celebration Fireworks, St Mary's River, U.S. Army Corps of Engineers Locks, Sault Sainte Marie, MI; in the Federal Register (76 FR 22064). We received 1 public submission commenting on the proposed rule.

Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. On April 12, 2012, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; International Bridge 50th Anniversary Celebration Fireworks, St Mary's River, U.S. Army Corps of Engineers Locks, Sault Sainte Marie, MI; in the Federal Register (76 FR 22064). We received 1 public submission commenting on the proposed rule.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. On April 12, 2012, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; International Bridge 50th Anniversary Celebration Fireworks, St Mary's River, U.S. Army Corps of Engineers Locks, Sault Sainte Marie, MI; in the Federal Register (76 FR 22064). We received 1 public

submission commenting on the proposed rule.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children. On April 12, 2012, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; International Bridge 50th Anniversary Celebration Fireworks, St Mary's River, U.S. Army Corps of Engineers Locks, Sault Sainte Marie, MI; in the Federal Register (76 FR 22064). We received 1 public submission commenting on the proposed rule.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. On April 12, 2012, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; International Bridge 50th Anniversary Celebration Fireworks, St Mary's River, U.S. Army Corps of Engineers Locks, Sault Sainte Marie, MI; in

the Federal Register (76 FR 22064). We received 1 public submission commenting on the proposed rule.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211. On April 12, 2012, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; International Bridge 50th Anniversary Celebration Fireworks, St Mary's River, U.S. Army Corps of Engineers Locks, Sault Sainte Marie, MI; in the Federal Register (76 FR 22064). We received 1 public submission commenting on the proposed rule.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of

Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards. On April 12, 2012, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; International Bridge 50th Anniversary Celebration Fireworks, St Mary's River, U.S. Army Corps of Engineers Locks, Sault Sainte Marie, MI; in the Federal Register (76 FR 22064). We received 1 public submission commenting on the proposed rule.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human

environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction because it involves the establishment of a safety zone. A final environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165 - REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T09-0200 to read as follows:

§ 165.T09-0200 Safety Zone International Bridge 50th Anniversary Celebration Fireworks, St Mary's River, U.S. Army Corps of Engineers Locks, Sault Sainte Marie, MI.

(a) Location. The following area is a temporary safety

zone: All U.S. navigable waters of the St. Mary's River within a 750-foot radius around the eastern portion of the U.S. Army Corp of Engineers Soo Locks North East Pier, centered on position: 46°30'19.66"N, 084°20'31.61"W [DATUM: NAD 83].

(b) Effective and enforcement period. This rule is effective and will be enforced from 10 p.m. until 12 a.m. on June 28, 2012.

(c) Regulations. (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Sector Sault Sainte Marie, or his or her on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sector Sault Sainte Marie, or his or her on-scene representative.

(3) The "on-scene representative" of the Captain of the Port, Sector Sault Sainte Marie, is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Sector Sault Sainte Marie, to act on his or her behalf. The on-scene representative of the Captain of the Port, Sector Sault Sainte Marie, will be aboard either a Coast Guard or Coast

Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port, Sector Sault Sainte Marie, or his or her on-scene representative to obtain permission to do so. The Captain of the Port, Sector Sault Sainte Marie, or his or her on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port, Sector Sault Sainte Marie, or his or her on-scene representative.

Dated: May 21, 2012

J. C. MCGUINESS

Captain, U.S. Coast Guard
Captain of the Port Sault Sainte Marie

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